

## REMARKS

In the Office Action of April 6, 2005, the Examiner rejected claims 1 and 4 under 35 U.S.C. § 103(a) as being unpatentable over Richmond et al., U.S. Patent No. 5,067,964 (Richmond). The Examiner states that at the time the present invention was made, it would have been obvious as a matter of design choice to a person of ordinary skill in the art to modify the material properties disclosed in Richmond, by having a polymeric component selected of polyacrylates, polyethylene, etc., so it can have the chain length disclosed in the specification. Applicants respectfully disagree with the Examiner.

While Richmond discloses an implant having a first and second polymeric component, where the chain length of one of the polymeric materials is longer than the other (Richmond, col. 3, lines 36-42), there is absolutely no teaching or suggestion in Richmond that the polymeric components in Richmond were selected because of their properties as a combination of a long-chain polymer and a short-chain polymer. The only teaching that such a combination would be useful is in Applicant's present invention. As such, the Examiner's rejection is improper. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art, not found in the Applicants' own invention. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

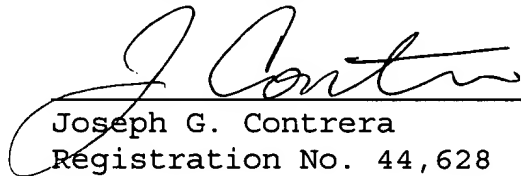
The Examiner also objected to claims 2, 3, 5-14, 16-53 and 56-57 as being dependent on a rejected base claim but would be allowable if rewritten in independent form including all the limitations of the intervening claims.

Notwithstanding Applicants foregoing response, to the Examiner's rejection, and without acquiescence, Applicants, in the interest of expedience, have amended claim 1 to incorporate the limitation of claim 2 and have canceled claim 2. It is believed that this amendment of claim 1 renders the outstanding rejections to claims 1 and 4 moot, and Applicants respectfully request its withdrawal.

It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

JACOBSON HOLMAN PLLC



Joseph G. Contrera  
Registration No. 44,628

400 Seventh Street, N.W.  
Washington, D.C. 20004-2201  
(202) 638-6666  
Date: June 3, 2005  
Atty. Docket: P67294US0  
HBJ/JGC